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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the matter of:

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Policies and Rules Pertaining to Local
Exchange Carrier "Freezes" on
Consumer Choices of Primary Local
Exchange or Interexchange Carriers

RM-9085
CCB/CPD 97-19

OPPOSITION OF GTE SERVICE CORPORATION

GTE Service Corporation ("GTE"), on behalf of its affiliated domestic telephone operating companies, hereby submits its Opposition to the Petition for Rulemaking filed by MCI Telecommunications Corporation ("MCI").¹ MCI urges the Commission to adopt detailed, subjective rules to govern the use of PIC-change "freezes" or other carrier restrictions on the switching of a consumer's primary interexchange carrier by incumbent local exchange carriers ("ILECs"). PIC-change restrictions were developed by ILECs as a response to customer complaints over the unauthorized changing of interexchange carriers ("IXCs"), commonly referred to as slamming. The Commission has identified slamming as a significant problem and has itself encouraged the public to use PIC-change restrictions as a solution. Because MCI has identified no widespread problem with ILEC PIC-change restriction solutions, GTE urges the Commission to find that a rulemaking on this issue is unnecessary.

¹ MCI Telecommunications Corporation, Petition for Rulemaking, RM-9085, CCB/CPD 97-19 (filed Mar. 18, 1997) ("MCI Petition").

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I. PIC-CHANGE RESTRICTIONS ARE AN EFFORT TO HELP CUSTOMERS PROTECT AGAINST IXC SLAMMING, AS RECOMMENDED BY THE COMMISSION.

GTE began offering PIC-change restrictions in response to customer complaints over slamming. Slamming occurs when a consumer's long distance carrier is changed without the consumer's knowledge or consent. Such changes can result in a consumer losing certain services, receiving lower quality service, and paying higher fees. Slamming problems have continued to grow and are now a significant consumer difficulty. Since 1994, the number of slamming complaints received by the Commission has increased three-fold, and by 1995, slamming was the number one cause of common carrier-related complaints.² In 1996, the Commission received 16,000 complaints regarding the unauthorized transfer of telephone service.³ However, this number is likely significantly lower than the actual number of slamming occurrences since most consumers complain to state and local officials or their local service provider, rather than the Commission.⁴ In fact, slamming occurrences account for the second highest number of complaints to the Texas attorney general.⁵ In addition, GTE believes that many customers simply do not report incidents of slamming.

² Common Carrier Scorecard, Federal Communications Commission at 3 (Fall 1996) ("Common Carrier Scorecard").

³ Neil Strassman, *Telephone Slam Haunting Consumers Long-Distance*, Fort Worth Star-Telegram, May 10, 1997, at B1, B12.

⁴ *Id.*

⁵ *Id.*

Slamming has been a serious problem for GTE customers. In 1996, GTE received over 2,370 complaints of unauthorized carrier changes from customers and state and federal officials and has received another 949 complaints during the first four months of 1997. These carrier changes cause serious problems for consumers. For example, in Texas, a customer in an area neighboring a GTE service area was slammed as a result of filling out a form she believed to be a sweepstakes. She incurred over eighty dollars in higher charges than she would have incurred with her regular carrier.⁶

An even more egregious example of this problem has occurred in California, another state in which GTE has significant operations. The California Public Utilities Commission recently fined Communications Telesystem International \$2 million as a result of slamming complaints by more than 56,000 customers.⁷ In response to the growing number of complaints, this Commission gives consumers a number of recommendations to avoid being slammed, the first of which is to "contact your local telephone company today and request that it obtain your permission before changing your long distance company."⁸ In addition, the Commission has previously stated that it "encourage[s] entities such as LECs to take additional steps that might help reduce slamming in their service areas" and has noted that Pacific Bell is employing PIC-

⁶ *Id.*

⁷ *State Activities*, Communications Daily, May 28, 1997, at 9.

⁸ Common Carrier Scorecard at 7.

change restrictions for its customers.⁹ GTE's PIC-change restriction procedures were developed in response to requests for exactly this type of action.

II. GTE'S PIC-CHANGE RESTRICTION PROCEDURES ARE TAILORED TO PREVENT SLAMMING AND ARE NONDISCRIMINATORY.

GTE designed PIC-change restriction procedures to address its customers' complaints of slamming by IXCs. GTE devotes significant resources to administering these processes solely to benefit its customers; GTE does not charge customers for this service. In fact, GTE does not pro-actively market PIC-change restrictions. Customer service representatives only offer a PIC-change restriction to customers that call with slamming complaints or that independently raise the subject during a call to a GTE service representative. When the customer does request information or calls with a slamming complaint, GTE service representatives explain the PIC-change restriction process in clear, neutral language.

The GTE PIC-change restriction process relies on a GTE-generated form to prevent fraudulent PIC changes. If a customer requests a PIC-change restriction during a conversation with a service representative, a GTE-generated form is mailed to the customer's address of record. The PIC-change restriction is not implemented until the customer returns the signed form to GTE. When the customer with a PIC-change restriction in place requests a change in carrier, a release form is mailed to the customer's address of record, and the carrier is changed when the customer returns the

⁹ In the Matter of Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, 10 FCC Rcd 9560, 9574 n.58 (1995).

signed form. GTE insists on mailing the form to the customer's address of record, rather than to IXCs. Although MCI suggests that such procedures may be overly restrictive,¹⁰ when GTE has allowed carriers to use their own forms or have copies of GTE's forms, it has received, for example, a four-inch high stack of forms with forged signatures, leading to additional slamming complaints. In addition, all forms have a control number so that GTE can verify that the exact form that is mailed to the customer is returned to GTE.

GTE will conduct three-way telephone conversations with IXC service representatives and GTE customers with a PIC-change restriction in place on their line. However, GTE requires that the customer provide some proof of identity, such as a social security number. Based on the outcome of the call, GTE will mail the appropriate form to the customer's home and will release the PIC-change restriction when the signed form is returned to GTE. MCI suggests that a three-way call should be sufficient for customers with a PIC-change restriction to change carriers.¹¹ However, GTE has found that even when it requires customer identification during calls, this is not always sufficient verification to ensure that it is actually the customer who is participating in the call. GTE follows these procedures strictly and treats all carriers similarly, including its own long distance affiliate. This process ensures that GTE's local service customers have the slamming protection they have requested and prevents forged changes of carriers to the greatest extent possible.

¹⁰ MCI Petition at 2, 8.

¹¹ MCI Petition at 9.

III. MCI'S PROPOSED RULES ARE UNNECESSARY.

GTE's PIC-change restriction process is designed to prevent slamming, not impede competition. In fact, it is overzealous marketing on the part of IXCs that has led to the need for PIC-change protection. No additional rules are necessary to govern the use of this consumer protection process. GTE's PIC-change restriction process has been successful in preventing slamming for those customers who request such protection, usually customers that have already been slammed, and is fair to all carriers. In addition, contrary to MCI's statements regarding other ILECs,¹² only approximately 2.5 percent of GTE's customers have such restrictions in place. If particular ILECs are implementing these PIC-change restrictions through problematic means, then the Commission can address these concerns through individual complaint proceedings.

Although GTE does not believe any rule changes are necessary, if the Commission does decide to review the implementation of PIC-change restrictions, it should do so as part of an overall proceeding to address the issue of slamming generally. In particular, the Commission should consider whether the current requirements for IXC verification of customer carrier changes are sufficient in light of the growing number of slamming complaints. The Commission should not consider restricting the measures carriers implement to prevent slamming without addressing the underlying problem.

¹² MCI Petition at 3-4 n.2.

In addition to being unnecessary, the rules MCI proposes would leave consumers without any options for protection against slamming. MCI proposes that ILECs be required to remove PIC-change restrictions solely based on the requirements of Section 64.1100. Although these procedures are usually sufficient, the fact that a slamming problem exists has demonstrated that customers should have the option of stronger protections. If ILECs are forced to release PIC-change restrictions based solely on a three-way telephone call or a written form received from a carrier rather than a customer, the customer who requested the PIC-change restriction will not be protected from fraudulent carrier changes. ILECs have no easy way to verify the identity of a customer via telephone and signed forms received from carriers have proved to be rife with forged signatures.

Moreover, MCI's request that carriers be given a list of customers with PIC-change restrictions would require the unauthorized disclosure of customer proprietary network information ("CPNI"), in likely violation of Section 222 of the Communications Act. Data regarding PIC-change restrictions falls under the definition of CPNI since it is "information that relates to the ... technical configuration [and] type ... of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship."¹³ Therefore, this information cannot be released by an ILEC to MCI or other carriers without the customer's consent.¹⁴

¹³ 47 U.S.C. § 222 (f)(1)(A).

¹⁴ 47 U.S.C. § 222 (c)(1)-(2).

In addition to not complying with the statute, however, MCI's request that ILECs release lists of customers with PIC-change restrictions is likely to offend ILEC customers. As explained above, most customers who initiate a PIC-change restriction have been slammed. Releasing the names of these customers would allow carriers to target them with special marketing strategies. This will irritate these customers and probably result in additional complaints. It is exactly to avoid falling prey to the marketing tactics of unscrupulous IXCs that customers initiate a PIC-change restriction.


IV. CONCLUSION

PIC-change restrictions provide customers with a valuable option to protect themselves from unauthorized changes in their chosen carriers. GTE customers who have been slammed are pleased to have this option available to them. There is no need for additional rules dictating how this Commission-recommended solution should be implemented, and those rules proposed by MCI would be likely to violate the Act and further irritate customers that have already been victims of slamming. If any ILECs are implementing these restrictions in an inappropriate manner, the Commission can address such problems on a case-by-case basis through the complaint process. Therefore, GTE urges the Commission to deny the Petition because a rulemaking to consider these issues is unnecessary.

Respectfully submitted,

GTE SERVICE CORPORATION, on behalf of its
affiliated domestic telephone operating companies

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CERTIFICATE OF SERVICE

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